

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

IN THE MATTER OF:

**ArcelorMittal Monessen LLC,
Monessen Coke Plant
345 Donner Avenue,
Monessen, Pennsylvania 15062**

NOTICE OF VIOLATION

**Docket Number
CAA-III-2015-009**

I. AUTHORITY

This NOTICE OF VIOLATION ("NOV") is issued pursuant to Section 113(a)(1) and (3) of the Clean Air Act (the "Act"), as amended on November 15, 1990 by P.L. 101-549, 42 U.S.C. § 7413(a)(1) and (3), to ArcelorMittal Monessen LLC ("ArcelorMittal" or "Respondent") for violations of the Pennsylvania State Implementation Plan ("Pennsylvania SIP") and its Title V operating permit at its coke plant located in Monessen, Pennsylvania. Section 113(a)(1) of the Act, 42 U.S.C. §§ 7413(a)(1), requires the Administrator of the United States Environmental Protection Agency ("EPA") to notify a person in violation of any requirement or prohibition of an implementation plan or permit, and the State in which the plan applies, of such finding. A description of the applicable statutes and regulations, the relevant facts and specific SIP or permit violations found by EPA are identified below. The authority to issue NOV's has been delegated to the Director of EPA Region III's Air Protection Division. The geographical jurisdiction of EPA Region III includes the Commonwealth of Pennsylvania. Though not required by the Act, a description of the applicable statutes and regulations, relevant facts and violations of Respondent's federally enforceable Title V permit provisions also found by EPA are identified below.

II. APPLICABLE STATUTES AND REGULATIONS

1. EPA is authorized by Section 113 of the Act, 42 U.S.C. § 7413, to take compliance and penalty actions upon finding violations of federally applicable air pollution control requirements, including requirements of federally enforceable SIPs or permits approved or authorized pursuant to Section 110(a) of the Act, 42 U.S.C. § 7410(a), and state operating permits issued pursuant to Section 502 of the Act, 42 U.S.C. § 7661a.

Pennsylvania SIP Requirements for Visible and Fugitive Emissions

2. Section 109 of the Act, 42 U.S.C. § 7409, requires EPA to promulgate regulations establishing primary and secondary national ambient air quality standards ("NAAQS") for certain air pollutants. The primary NAAQS are to be sufficient to protect the public health, allowing an adequate margin of safety, and the secondary NAAQS are to be sufficient to

protect the public welfare from any known or anticipated effects associated with the presence of the air pollutant in the ambient air. Under Section 110(a) of the Act, 42 U.S.C. § 7410(a), each state is required to adopt and submit to EPA for approval a SIP which provides for the attainment and maintenance of each such NAAQS.

3. The Pennsylvania SIP, approved by EPA at 40 C.F.R. § 52.2020(b), includes 25 Pa. Code § 123.41, which provides that “[a] person may not permit the emission into the outdoor atmosphere of visible air contaminants in such a manner that the opacity of the emission is either of the following:
 - (1) Equal to or greater than 20% for a period or periods aggregating more than three (3) minutes in any 1 hour.
 - (2) Equal to or greater than 60% at any time.”
4. The Pennsylvania SIP also includes 25 Pa. Code § 129.15(c), which provides that “[v]isible fugitive air contaminants in excess of 20% opacity from an air cleaning device installed for the control of pushing emissions under a plan approval from the Department shall be prohibited unless the Department finds that:
 - (1) The emissions are of minor significance with respect to causing air pollution.
 - (2) The emissions will not prevent or interfere with the attainment or maintenance of any ambient air quality standard.”
5. Pursuant to Section 302(q) of the Act, 42 U.S.C. § 7602(q), an applicable implementation plan is the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved by EPA pursuant to Section 110 of the Act, 42 U.S.C. § 7410, or promulgated by EPA pursuant to Section 110(c) of the Act, 42 U.S.C. § 7410(c), and which implements the relevant requirements of the Act.

Federally Enforceable Title V Operating Permit

6. Section 502 of the Act, 42 U.S.C. § 7661a, imposes a federal operating permitting requirement (“Title V”) on a variety of regulated sources, including sources that are major sources of hazardous air pollutants (“HAPs”) and of other air pollutants. The regulatory requirements of the federal Title V permitting program for state operating permit programs are promulgated at 40 C.F.R. Part 70.
7. Section 502(d) of the CAA, 42 U.S.C. § 7661d, provides that each state must submit to the Administrator a permit program meeting the requirements of Title V. EPA granted final full approval to the Pennsylvania Title V permit program on August 29, 1996, and the program became effective on that date. 61 Fed. Reg. 39597. *See also* 40 C.F.R. Part 70, Appendix A. Pennsylvania’s Title V regulations are promulgated at 25 Pa. Code §§ 127.501-127.543. Pennsylvania’s Title V regulations incorporated by reference PADEP’s operating permit

requirements, 25 Pa. Code §§ 127.401-127.464, of the federally approved Pennsylvania SIP. *See* 25 Pa. Code § 127.501 and 40 C.F.R. § 52.2020(b).

8. The Pennsylvania Department of Environmental Protection (“PADEP”) is a permitting authority for Title V purposes as defined in Section 501(4) of the Act, 42 U.S.C. § 7661(4).
9. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) provide that it is unlawful for any person to violate any requirement of a permit issued under Title V of the Act after the effective date of any permit program approved under Title V of the Act.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

10. ArcelorMittal, a public limited liability corporation organized under the laws of the State of Delaware, owns and operates a metallurgical coke plant located at 345 Donner Avenue, Monessen, Pennsylvania 15062 (the “Facility”). The coke is used in blast furnaces for the conversion of iron ore into elemental iron.
11. ArcelorMittal is a “person” within the meaning of Sections 113(a) and 502 of the Act, 42 U.S.C. §§ 7413(a) and 7661a, and as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e), because it is a corporation. At all times relevant to this NOV, Respondent has been the owner and operator of the Facility.
12. PADEP issued a Title V permit to the Facility, Permit No. 65-00853, on January 30, 2014 (the “Title V permit”). The permit was effective on that date and expires on January 30, 2019. ArcelorMittal is the permittee under the Title V permit. The Facility is a Title V Facility required to have a Title V permit pursuant to Pennsylvania’s Title V permit regulations as it is a major source of air pollutants. *See* 25 Pa. Code §§ 121.1 and 127.501-127.543
13. Pursuant to Section B, Condition #007(a) of the Title V permit, “[t]he permittee shall comply with the conditions of this permit.” Section B also specifies that permit noncompliance constitutes a violation of the Act and the Pennsylvania Code.
14. EPA and PADEP conducted an inspection of the Facility from April 14 to 15, 2015 and monitored emissions from the #1 and #2 coke batteries for the coal charging, coke pushing, and coke oven door areas, as well as the topside piping and the combustion stacks.

Opacity of Visible Emissions

15. Pursuant to 25 Pa. Code § 123.41, which is included in the federally enforceable Pennsylvania SIP “[a] person may not permit the emission into the outdoor atmosphere of visible air contaminants in such a manner that the opacity of the emission is either of the following:

- (1) Equal to or greater than 20% for a period or periods aggregating more than three (3) minutes in any 1 hour.
 - (2) Equal to or greater than 60% at any time.”
16. Section C, Condition #007 of the Title V permit incorporates 25 Pa. Code § 123.41 of the federally enforceable Pennsylvania SIP as a restriction for the Facility.
17. On April 15, 2015, EPA inspectors conducted opacity readings for the #1 combustion stack. They recorded a total of 34.75 minutes during the hour-long test where opacity exceeded the 20% limit specified in 25 Pa. Code § 123.41(1). As the regulation allows opacity equal to or greater than 20% for only three minutes per hour, the #1 combustion stack exceeded the limit by 31.75 minutes.
18. The exceedances constitute violations of 25 Pa. Code § 123.41 and the Title V permit. Correspondingly, they are also violations of the Pennsylvania SIP and Sections 113 and 502 of the Act, 42 U.S.C. §§ 7413 and 7661a.

Opacity of Fugitive Emissions

19. Pursuant to 25 Pa. Code § 129.15(c), which regulates coke pushing operations, “[v]isible fugitive air contaminants in excess of 20% opacity from an air cleaning device installed for the control of pushing emissions under a plan approval from [PADEP] shall be prohibited unless [PADEP] finds that:
 - (1) The emissions are of minor significance with respect to causing air pollution.
 - (2) The emissions will not prevent or interfere with the attainment or maintenance of any ambient air quality standard.”
20. Section C, Condition #002(a)(8) of the Title V permit incorporates 25 Pa. Code § 129.15 as a restriction for the Facility.
21. The Facility utilizes a hood, baghouse, and ductwork as air cleaning devices to control pushing emissions. These air cleaning devices to control pushing emissions were installed at the Facility pursuant to a plan approval(s) from PADEP and are requirements for the Facility included in the Title V permit. The exemptions listed in 25 Pa. Code § 129.15(c)(1)-(2) do not apply to this device because PADEP has not found that the coke pushing operations meet either criteria.
22. On April 14 and 15, 2015, EPA inspectors conducted opacity readings of coke pushing operations at the Facility. Both tests recorded greater than 20% opacity from air cleaning devices installed for the control of pushing emissions pursuant to the Facility’s plan approval(s) and Title V permit.

23. The exceedances constitute violations of 25 Pa. Code § 129.15(c) and the Title V permit. Correspondingly, they are violations of the Pennsylvania SIP and Sections 113 and 502 of the Act, 42 U.S.C. §§ 7413 and 7661a.

IV. ENFORCEMENT

24. Sections 113(a)(1) and (3) of the Act, as amended, 42 U.S.C. § 7413(a)(1) and (3), provide that whenever, on the basis of information available to the EPA Administrator, the EPA Administrator finds that any person has violated Subchapters I and V of the Act, the implementation plan, the EPA Administrator, or an EPA official authorized to act as her representative, may, without regard to the period of violation:
- (a) issue an order requiring compliance with the requirements of the state implementation plan or permit;
 - (b) issue an administrative penalty order pursuant to Section 113(d), 42 U.S.C. § 7413(d), for civil administrative penalties for up to \$27,500 per day of violation for violations occurring on or before March 14, 2004, \$32,500 per day of violation for violations occurring after March 14, 2004; and \$37,500 per day of violation for violations occurring after January 12, 2009; or
 - (c) bring a civil action pursuant to Section 113(b), 42 U.S.C. § 7413(b), for injunctive relief and/or civil penalties of not more than \$27,500 per day of violation for violations occurring on or before March 14, 2004; \$32,500 per day of violation for violations occurring after March 14, 2004; and \$37,500 per day of violation for violations occurring after January 12, 2009.
25. Section 113(c) of the Act, as amended, 42 U.S.C. § 7413(c), further provides for criminal penalties or imprisonments, or both, for any person who knowingly violates certain requirements of Subchapter I of the Act or any requirement or prohibition of an applicable state implementation plan.
26. Pursuant to Section 306(a) of the Act, as amended, 42 U.S.C. § 7606(a), regulations promulgated thereunder at 40 C.F.R. Part 15 and Executive Order 11738, facilities to be utilized in federal contracts, grants and loans must be in full compliance with the Act and all regulations promulgated pursuant thereto. Violations of the Act may result in the subject Facility being declared ineligible for participation in any federal contract, grant or loan.

V. PENALTY ASSESSMENT CRITERIA

27. Section 113(e)(1) of the Act, as amended, 42 U.S.C. § 7413(e)(1), states that the court, in an action for assessment of civil or criminal penalties, shall, as appropriate in determining the amount of penalty to be assessed, take into consideration (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration

of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

28. Section 113(e)(2) of the Act, 42 U.S.C. § 7413(e)(2), allows the court to assess a penalty for each day of the violation. For purposes of determining the number of days of violation, where the plaintiff makes a prima facie showing that the conduct or events giving rise to this violation are likely to have continued or recurred past the date of this NOV (or a previously issued air pollution control agency notice of violation for the same violation), the days of the violation shall be presumed to include the date of this NOV (or the previous notice of violation) and each and every day thereafter until Respondent establishes that continuous compliance has been achieved, except to the extent that Respondent can prove by the preponderance of the evidence that there were intervening days during which no violation occurred or that the violation was not continuing in nature.

VI. OPPORTUNITY FOR CONFERENCE

29. ArcelorMittal may, upon request, confer with EPA to discuss this NOV. If ArcelorMittal requests a conference with EPA, ArcelorMittal should be prepared to describe the causes of the violation and to describe any actions it may have taken or proposes to take to bring its Facility into compliance. ArcelorMittal has the right to be represented by counsel.
30. ArcelorMittal must submit any request for a conference with EPA within fourteen (14) calendar days of receipt of this NOV. A request for a conference with EPA, and/or any inquiries regarding this NOV, should be submitted in writing to:

James W. Hagedorn
Air Protection Division, 3AP20
U.S. Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, PA 19103-2029

VII. EFFECTIVE DATE

31. This NOV shall be effective immediately upon receipt by ArcelorMittal.

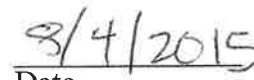
VIII. QUESTIONS REGARDING NOV

32. If you have any questions concerning this NOV, you may contact Ms. Zelma Maldonado, Associate Director, Office of Air Enforcement and Compliance Assurance, at (215) 814-3448, or James W. Hagedorn, Environmental Scientist, at (215) 814-2161; or have your attorney contact Robert Stoltzfus, Senior Assistant Regional Counsel, at (215) 814-2695.

IX. DISCLOSURE INFORMATION

33. Certain companies may be required to disclose to the Securities and Exchange Commission (SEC) the existence of certain pending or known to be contemplated environmental legal proceedings (administrative or judicial) arising under federal, state or local environmental laws. Please see the attached "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings" for more information about this requirement and to aid you in determining whether your company may be subject to the same.
34. EPA is attaching an Information Sheet entitled "U.S. EPA Small Business Resources," (EPA 300-B-15-001, May 2015), which identifies a variety of compliance assistance and other tools available to assist small businesses in complying with Federal and State environmental laws.


Diana Esher, Director
Air Protection Division


Date

cc: Therese Vande Hey, Esq. ArcleorMittal
Thomas Kuntz, PADEP
Michael Heilman, Esq., PADEP
James Hagedorn, EPA
Robert Stoltzfus, Esq., EPA

